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ARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER



BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: NOVEMBER 9, 1999

DOCKET NO: T-03199A-96-0326

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Jane Rodda. The recommendation has been filed in the form of an Order on:

NORTH AMERICAN TELEPHONE NETWORK LLC
(CC&N/RESELLER)

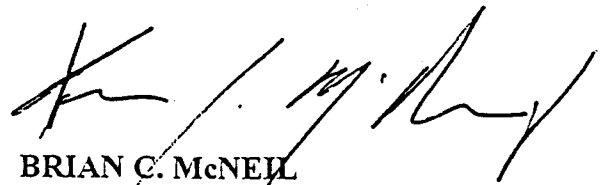
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 10:00 a.m. on or before:

NOVEMBER 18, 1999

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

DECEMBER 7, 1999 and DECEMBER 8, 1999

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 WILLIAM A. MUNDELL
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
7 NORTH AMERICAN TELEPHONE NETWORK,
8 LLC FOR A CERTIFICATE OF CONVENIENCE
AND NECESSITY TO PROVIDE COMPETITIVE
INTRASTATE TELECOMMUNICATIONS
SERVICES AS A RESELLER.

DOCKET NO. T-03199A-96-0326

9
10 DECISION NO. _____

11 **ORDER**

12 Open Meeting
December 7 and 8, 1999
Phoenix, Arizona

13 **BY THE COMMISSION:**

14 Having considered the entire record herein and being fully advised in the premises, the
Commission finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. On June 4, 1996, North American Telephone Network, LLC ("Applicant") filed with
17 the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to
18 provide competitive resold intrastate toll telecommunications services in Arizona.

19 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold
20 telecommunications providers ("resellers") were public service corporations subject to the
21 jurisdiction of the Commission.

22 3. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101
23 through R14-2-1115 to regulate resellers.

24 4. Applicant is a Georgia limited liability company that has been authorized to do
25 business in Arizona since 1996.

26 5. Applicant is a switchless reseller and planned to resell services provided by MCI.

27 6. On August 20, 1999, the Commission's Utilities Division Staff ("Staff") filed a Staff
28 Report.

1 7. In the Staff Report, Staff stated that Applicant had provided unaudited financial
2 statements for the year ended December 31, 1998, which indicate Applicant had negative retained
3 earnings of \$5.7 million and net income of \$671,000. Based on the foregoing, Staff believes that
4 Applicant does not appear to have sufficient financial resources to make necessary plant additions or
5 incur operating losses. Accordingly, Staff recommended as a condition of certification that pursuant
6 to A.A.C. R14-2-1105.D, Applicant maintain for a minimum of one year, an escrow account equal to
7 the total amount of any prepayments, advances and deposits that Applicant may collect from its
8 customers. In the alternative, Applicant could file a letter stating that it does not currently charge
9 customers any prepayments, advances or deposits, and does not intend to do so in the future. If at
10 some future date Applicant desired to charge customers any prepayments, advances or deposits, it
11 must file information with Staff that demonstrates Applicant's financial viability. Staff would review
12 the information and provide Applicant its decision concerning financial viability within 30 days of
13 receipt of the information. Staff believes that if Applicant experiences financial difficulty, there
14 should be minimal impact to its customers. Customers are able to dial another reseller or facilities-
15 based provider, and may permanently switch to another company without forfeiting any prepayment,
16 advance or deposit.

17 8. The Staff Report stated that Applicant has no market power and the reasonableness of
18 its rates would be evaluated in a market with numerous competitors.

19 9. Staff recommended that:

20 (a) Applicant's application for a Certificate should be approved without a hearing
21 subject to A.A.C. R14-2-1106.B;

22 (b) Applicant's intrastate toll service offerings should be classified as competitive
 pursuant to A.A.C. R14-2-1108;

23 (c) Applicant's competitive services should be priced at the effective rates set
24 forth in Applicant's tariffs and the maximum rates for these services should be the
25 maximum rates proposed by Applicant in its tariffs. The minimum rates for applicant's
 competitive services should be Applicant's long run incremental costs of providing
 those services as set forth in A.A.C. R14-2-1109; and

26 (d) Applicant should be required to comply with the Commission's rules and
27 modify its tariffs to conform with the rules if it is determined there is a conflict
28 between Applicant's tariffs and the Commission's rules.

10. By Procedural Order dated October 4, 1999, the Commission set a deadline of October 29, 1999, for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting intervention as interested parties.

11. No exceptions were filed to the Staff Report, nor did any party request that a hearing be set.

12. On May 26, 1999, Applicant filed a letter with the Commission, indicating that it does not currently, and does not intend in the future, to charge its customers any prepayments, advances or deposits.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. As conditioned herein, Applicant's provision of resold intrastate toll services is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate for providing competitive intrastate toll services as a reseller in Arizona.

6. Staff's recommendations in Findings of Fact Nos. 7 and 9 are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the Application of North American Telephone Network, LLC for a Certificate of Convenience and Necessity for authority to provide competitive resold intrastate toll telecommunications services shall be, and the same is hereby granted, except that North American Telephone Network, LLC shall not be authorized to charge customers any prepayments, advances or deposits. In the future if North American Telephone Network, LLC desires to initiate such charges, including, but not limited to prepaid calling cards, it must file information with the Commission that demonstrates the company's financial viability or establish an escrow account or

1 to the amount of any prepayments, advances or deposits. Staff shall review the information provided
2 and file its recommendation concerning financial viability within thirty days of receipt of the
3 financial information, for Commission approval.

4 IT IS FURTHER ORDERED that North American Telephone Network, LLC shall comply
5 with the Staff recommendations set forth in Findings of Fact No. 9.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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10 CHAIRMAN

COMMISSIONER

COMMISSIONER

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13 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
14 Secretary of the Arizona Corporation Commission, have
15 hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of Phoenix,
17 this ____ day of ____, 1999.

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT
JR:DAP

1 SERVICE LIST FOR:

NORTH AMERICAN TELEPHONE NETWORK, LLC

2 DOCKET NO.

T-03199A-96-0326

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